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Before the
FEDERAL COMMUNICATIONS COMMISSION MAY 15 1996
Washington, DC 20554

In the Matter of)

STREAMLINING BROADCAST EEO RULE AND)
POLICIES, VACATING THE EEO FORFEITURE)
POLICY STATEMENT AND AMENDING SECTION)
1.80 OF THE COMMISSION'S RULES TO)
INCLUDE EEO FORFEITURE GUIDELINES)

MM Docket 96-16

To: The Commission

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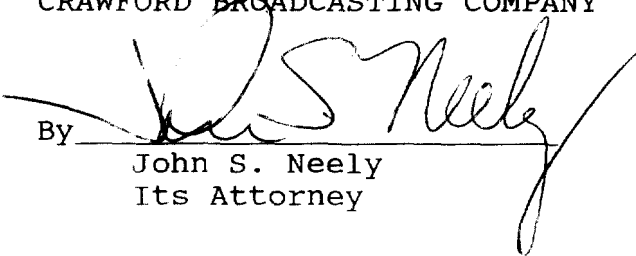
COMMENTS OF CRAWFORD BROADCASTING COMPANY

Transmitted herewith on behalf of Crawford Broadcasting
Company are comments to the above-referenced proceeding.

Respectfully Submitted,

CRAWFORD BROADCASTING COMPANY

By


John S. Neely
Its Attorney

May 15, 1996

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ENCLOSURE

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CRAWFORD
BROADCASTING
COMPANY

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May 7, 1996

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington D.C. 20554

Re: MM DOCKET No. 96-16

Dear Mr. Canton,

We are indeed grateful for the opportunity to comment on the various proposals which the FCC has put forth, which may result in more equitable rules and regulations with regard to EEO requirements.

We are the Crawford Broadcasting Company, owners and operators of nineteen radio stations, six FM and thirteen AM. Our holdings are concentrated in the top 30 markets, five of our stations with locations in the top 10 markets, seven stations in markets 11 through 30, five in the great State of New York in the key cities with the exception of New York City, and two in Birmingham, Alabama. We know well the opportunities which exist working in large markets, and the difficulties which prevail providing radio services in a small market (i.e., Syracuse Market 67).

Our Company produces specialty programming. It may be generically described as religious in nature, although it is far more varied and complex in reality. Because of the special nature of our programming, we are generally required to seek a different type of personnel, an employee with a sensitivity to and a priority for programming and marketing from a spiritual standpoint in contradistinction to the ordinary and numerous radio stations which provide so called mainstream programming. Recruitment of qualified personnel for our purposes is much more difficult. By and large, the average personnel candidate for a so called secular radio position would not qualify for our purposes, and even more importantly, such a qualified or experienced prospective employee would have little or no interest in working for our Company. That is essentially so because of the differences in our programming and, as well, more circumscribed limits with regard to compensation, promotion and advancement, and opportunities with respect to national recognition and compensation.

We are therefore required, for the most part, to hire new employees who have little or no experience in radio specifically or broadcasting generally. Consequently, we are required to invest considerable sums of finances and talent in the training of such individuals which, as you may recognize, is a lengthy and arduous process. More often than not, the new hiree does not succeed, and we are reduced to the financially expensive task of rehiring and retraining. Sometimes, an individual who does become successful with our Company is raided by a larger company which we presume is part of their "recruitment" efforts, again to our loss, and again we start over. Recruiting is therefore considerably different for us. A larger company with mainstream programming may

have a significant pool of resumes and active job-seekers, most if not all of which have broadcast experience. In contrast, we, as positions open, must essentially start from scratch in our recruiting efforts which both lengthens the process for finding qualified employees, and increases the expense.

Because of the specialized nature of our programming and the necessity for hiring individuals with different priorities, the use of a centralized job source shared by other broadcasters would be for us irrelevant. Centralized job banks operated by a state broadcaster association would provide candidates who would not meet our needs. Similarly, we recruit a type and kind of employee and from unique sources which would make a joint recruitment program shared with other broadcasters irrelevant. In order to do our business right, we are required to proceed with our own efforts and make our own decisions.

Wherever possible, we work with the people we know, whom we have hired and trained in our systems, individuals who have been indoctrinated by our culture and are supportive of its premises. We make every effort to grow those individuals who may be originally hired for lesser positions, but when showing any realistic promise, become virtually immediately candidates for growth and promotion. As that process unfolds, we are indeed sensitive to both the hiring and the promotion of minorities and women. We think our Company is well integrated, both in terms of employees at work and programming produced. But the hiring function for us is in some ways more critical than for another or larger station. There are considerably more opportunities for such a station to hire and integrate various personnel with various backgrounds. With us,

every individual is critically important, and there is no margin for error. It is therefore important that we not only hire right, but in the event the employee is not right for our culture, we must have the option to discharge that employee immediately and begin the hiring process once again.

Our concern lies with constructing and maintaining the so called pool of potential employees, current resumes of minorities and women as ready candidates for an employment opportunity. Such a pool of potential employees is difficult for us to produce, especially since we generally recruit those individuals with little or no broadcast experience. Even when more than one candidate applies for a job opening, when that position is filled, any other candidates for that job are realistically not available for hire shortly thereafter. When we complete a hiring, we seldom maintain other resumes from potential candidates in an active file. Rather, when a new opening occurs, we essentially start from scratch in our hiring process utilizing any hiring sources we have found fertile. We think that although the employee pool concept may produce numbers and a pro forma construct for recruitment of minorities and women, the concept breaks down in reality, at least for us, and it becomes far more burdensome than productive. We would sincerely request of this Commission, that such a requirement be eliminated in favor of other more practical ways and means to accomplish EEO objectives.

We do fully agree that vacancies or employment availabilities should refer only to "full-time" positions. We further agree that vacancies should be evaluated both for overall and upper-level positions. Part-time vacancies should not be considered under any circumstances. Part-time jobs change considerably and often, and part-time

employees come and go with considerable frequency so that control and projection of positions and people at this level is virtually impossible. Any such mandate would be unduly restrictive, burdensome and take away the considerable flexibility which any broadcaster requires at this ever-changing level.

We think that the essential guidelines and benchmarks which the FCC has set for the hiring of minority and females, are essentially equitable and workable, with certain exceptions. We think, however, that based on experience, that stations with five to fifteen full-time employees should have a minimum of 50 percent of the positions filled by minority and females in the overall staff and 25 percent at the upper-level. Consequently, stations with sixteen or more full-time employees should have minorities and females in a minimum of 50 percent of the positions for both overall and upper-level job categories. If a station has such representation and proportion in its actual hiring, and in fact the relevant positions for hire are filled by minorities and women in accordance with the percentages previously mentioned, then the station should be presumptively concluded to have met its EEO-hiring requirements regardless of the recruitment efforts or program which may have been pursued, or the size or quality of the pool of potential candidates or resumes which may have been compiled, if any. In short, the Commission should concentrate on the end result, and not the means. The means to achieving such equitable and social ends should be entirely within the discretion of each radio station. If the percentages and proportions as indicated above for the hiring of minorities and women are not met in either the overall or upper-level staffing positions, then the burden would be upon the station to produce clear evidence of its

recruitment efforts and program, and to justify fully why such hirings did not occur. Should it fail to do so, then any appropriate forfeitures would occur.

There should be, in our view, no requirements for paperwork or documentation. Paperwork of events or transactions with respect to hirings are historical, often irrelevant and non-current in approximately 30 days, in our experience. Further, any such paperwork can often be inaccurate, especially since the documentation can be compiled by any number of individuals, some of whom would compile accurately and thoroughly, and others not so. Our society is so dynamic, change so rampant, that, in short order, the hiring process virtually starts over no matter what the files show. Again, the efforts and the records, and documentation which supports those efforts, for hiring should only become relevant if the station fails to attain the benchmark hirings in the proportions and percentages required for minorities and women. If such documentation were not available in that event, then the burden of proving its recruiting efforts would be even greater on the defaulting radio station.

With regard to upper-level positions, smaller stations or those with more limited budgets are often forced to combine positions or otherwise produce job descriptions which provide for more than one function. The broadest possible latitude should be allowed each broadcaster-employer to define the positions, especially with regard to upper-level ones, for the purpose of meeting EEO hiring requirements.

We further think it grossly unfair that a station be required to hire in any way other than that which is, in its sole discretion, in its very own best interests. Each station should be allowed to make vertical or lateral movements within its own staff,

within its own discretion, promote at any time within its own ranks, transfer employees from one station to another, within its Company or otherwise fill any position which may become available in its sole discretion and for its own best business purposes without regard to forced EEO-hiring requirements, so long as the overall proportions and percentages of minorities and women at work meet the guidelines and benchmarks as indicated above. We ask that this Commission take cognisance of the fact, at the bottom-line, radio stations are first and foremost businesses which must be run accordingly, and decisions must be first made from a financial standpoint and secondarily from a social or racial standpoint. Providing for maximum discretion at all times, both with regard to positions and people, is critical for the survival of any business, particularly a radio station in this competitive environment so long as ultimate social objectives are met. The new Telecommunications Act has produced a feeding frenzy of buying and selling, mega mergers, and the expansion of the large groups, in some cases, to the detriment of the small. Compared to radio owners such as CBS-Westinghouse, SFX Sillerman, Evergreen and the like, Crawford Broadcasting Company is a small conglomerate, subject to intense pressure for merger or purchase and with considerable competitive disadvantages for its financial growth and even survival. For those reasons, maximum discretion must be allowed in the hiring process so that each station can hire the type and kind of person it requires without excess and unnecessary regulatory requirements.

We think that the market size for determining the size of the female and minority population should essentially be the effective coverage area of each radio station. Our marketing gameplan, for example, comprehends the selling and marketing of our

programming in smaller towns and cities and, in many ways, we do not have access to the assets and finances of the major market of license per se. We should have the right to recruit our employees where we work, where we market, no matter how far distant that may be from the city of license. Today, effective coverage is critical, far more so than size of market (SMSA). Stations with specialty programming, such as ours, look for niches, smaller markets where the larger company and stations have not made impact. Hiring in such areas, and being able to include their population ratios in overall computations would be extremely helpful.

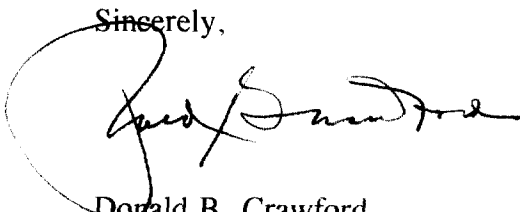
We further think that the size of the minority population should be at least 5 percent of the overall population in the total coverage area before minority hiring requirements would apply. A lesser percentage indicates a smaller population, and a far smaller core group of relevant or potentially qualified employee candidates from such a minority source. If less than 5 percent, then the station should be required to do nothing more than a best efforts approach to be sensitive to the hiring possibilities, and to consider candidates from such a source as they would be found and readily available.

We further think there should be distinctions between AM and FM hiring practices. FM is entirely dominant in so many markets and have considerably larger staffs, for the most part, than AM stations. If the Commission were adverse to extending the first plateau for both AM and FM stations to staffs with five to fifteen full-time employees, then that criteria should surely apply to AM stations which have far greater difficulty in competing with FM for talent or employees generally.

Any petition to deny an application or challenge your licencees reputations with regard to EEO requirements should fail without more if the hiring benchmarks have been met. If they have not, then the burden of proof should be upon the licensee to demonstrate equity and fairness in the hiring process, explaining to the best of its ability the recruitment efforts and program it had in place at a hearing to be determined by the Commission. Any failure to meet that burden would result in sanctions. Again, that allows the licensee the discretion to accomplish its own business-financial ends, while at the same time recognizing its responsibility to perform according to the minority hiring benchmarks which the Commission has established. For very little is accomplished nor is there default when there is "Failure to Recruit" whether for 33 percent of vacancies, or all vacancies in hiring. Such priorities and policies by this Commission are burdensome, often irrelevant, and result in pro forma efforts for the sake of the record rather than the reality of the needs of the radio station. Continue the benchmarks and guidelines with the revisions recommended which would be fair to radio stations and which would at the same time accomplish the social-hiring objectives of the FCC.

Again, we thank you for the opportunity to submit these comments, which we have respectively done.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald B. Crawford", is written over a large, loopy circular flourish.

Donald B. Crawford
President

DBC:ker